

## HOUSE BILL NO. 731

INTRODUCED BY R. KOOPMAN

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII, SECTION 11, OF THE MONTANA CONSTITUTION TO PROVIDE THAT A JUSTICE OR THE CHIEF JUSTICE OF THE SUPREME COURT MAY BE RECALLED FROM OFFICE FOR FAILURE TO PERFORM DUTIES; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Article VII, section 11, of The Constitution of the State of Montana is amended to read:

**"Section 11. Removal and discipline -- recall.** (1) (a) The legislature shall create a judicial standards commission consisting of five persons and provide for the appointment thereto of two district judges, one attorney, and two citizens who are neither judges nor attorneys.

(2)(b) The commission shall investigate complaints, and make rules implementing this section. It may subpoena witnesses and documents.

(3)(c) Upon recommendation of the commission, the supreme court may:

(a)(i) Retire any justice or judge for disability that seriously interferes with the performance of his duties and is or may become permanent; or

(b)(ii) Censure, suspend, or remove any justice or judge for willful misconduct in office, willful and persistent failure to perform his duties, violation of canons of judicial ethics adopted by the supreme court of the state of Montana, or habitual intemperance.

(4)(d) The proceedings of the commission are confidential except as provided by statute.

(2) A justice or the chief justice of the supreme court may be recalled from office by adoption by the people of a petition alleging that the justice or chief justice has failed in the performance of the duties of the justice or chief justice. The petition need not state specific grounds constituting failure of performance of duties. The petition must be signed by at least ten percent of the electors qualified to vote in the preceding general election and must be filed in the office of the secretary of state. The secretary of state shall have the question placed on the ballot at the next general election. If the petition is approved by the electorate, the office becomes vacant on the date of approval and shall be filled as provided by law."

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2           NEW SECTION. **Section 2. Effective date.** This amendment is effective upon approval by the  
3 electorate.

5        NEW SECTION. **Section 3. Submission to electorate.** This amendment shall be submitted to the  
6        qualified electors of Montana at the general election to be held in November 2006 by printing on the ballot the  
7        full title of this act and the following:

8           []       FOR allowing a justice or the chief justice of the supreme court to be recalled for failure to  
9           perform duties.

10           []       AGAINST allowing a justice or the chief justice of the supreme court to be recalled for failure  
11           to perform duties.

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